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16 **UNITED STATES DISTRICT COURT**  
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
18 **SAN FRANCISCO DIVISION**

19 LOOKSMART GROUP, INC.,

20 Plaintiffs,

21 v.

22 MICROSOFT CORPORATION

23 Defendant.

Case No. 3:17-cv-4709-JST

**DECLARATION OF LESLIE V. PAYNE  
IN SUPPORT OF LOOKSMART'S  
OPPOSITION TO MICROSOFT'S  
DAUBERT MOTION AND MOTION TO  
EXCLUDE TESTIMONY OF  
LOOKSMART'S DAMAGES EXPERT,  
MICHAEL J. LASINSKI**

Date: July 11, 2019

Time: 2:00 pm

Place: Courtroom #9 (19<sup>th</sup> Fl.)

Judge: The Honorable Jon S. Tigar

1 I, Leslie V. Payne, do hereby declare as follows:

2 1. I am an attorney at law licensed to practice in the State of Texas (admitted *pro hac*  
3 *vice* in this case), and I am an attorney at the law firm of Heim, Payne & Chorush, LLP, counsel  
4 for Plaintiff Looksmart Group, Inc. ("Looksmart") in this action. I submit this declaration in  
5 support of the LookSmart's Opposition to Microsoft's *Daubert* Motion and Motion to Exclude  
6 Testimony of LookSmart's Damages Expert, Michael J. Lasinski, pursuant to Local Rule 7-5. I  
7 have personal knowledge of the facts recited below, and they are true and correct and based upon  
8 my understanding. If called upon as a witness, I could and would competently testify as stated  
9 herein.

10 2. Exhibit 1 to LookSmart's Opposition is a true and correct copy of the report of  
11 LookSmart's damages expert, Michael J. Lasinski, regarding damages. It contains information  
12 that Microsoft has alleged is "Highly Confidential – Attorneys' Eyes Only" under the Protective  
13 Order.

14 3. Exhibit 2 to LookSmart's Opposition is a true and correct copy of excerpts from the  
15 rebuttal report of Microsoft's damages expert, Shelly Irvine, regarding damages. It contains  
16 information that Microsoft has alleged is "Highly Confidential – Attorneys' Eyes Only" under the  
17 Protective Order.

18 4. Exhibit 3 to LookSmart's Opposition is a true and correct copy of a paper titled  
19 "Discount Rates, Risk, and Uncertainty in Economic Damages Calculation" prepared for the  
20 American Institute of Certified Public Accountants.

21 5. Exhibit 4 to LookSmart's Opposition is a true and correct copy of excerpts from  
22 Morningstar's Ibbotson Cost of Capital 2010 Yearbook.

23 6. Exhibit 5 to LookSmart's Opposition is a true and correct copy of excerpts from the  
24 deposition of Microsoft's damages expert, Shelley Irvine.

1 I declare under penalty of perjury under the laws of the State of California, that the  
2 foregoing is true and correct and that this declaration is executed in Houston, Texas on June 4,  
3 2019.

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5 By: /s/ Leslie V. Payne  
6 Leslie V. Payne  
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